

## REMARKS

Initially, the Applicants note that a Request for Continued Examination has been filed at the same time as this Amendment, along with the required fee. Thus, the Applicants request that the Examiner withdraw the finality of the outstanding Office Action and enter and consider this Amendment. 37 CFR § 1.114.

A new claim has been added, claim 25, which recites the rasp of claim 21, wherein the plastic material is exposed to  $\beta$  or  $\gamma$  rays.

Claims 15, 16, and 21 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Geisser (U.S. Patent No. 5,454,815). The Applicants respectfully disagree with this rejection. Independent claim 21 has been amended to recite, *inter alia*, a rasp for removing a part of a bone from the bone, comprising protrusions made of a plastic material...said plastic material being hard enough for the removal of hip or knee bone. Geisser does not teach a rasp that is actually hard enough to remove hip or knee bone. It is well known in the art that hip and knee bones are the strongest and hardest bones of the whole body, since these bones support the whole skeleton. As established in the declaration of Jean François Biegun filed with Amendment E, a rasp constructed according to the concepts of the Geisser invention (without exposure to  $\beta$  or  $\gamma$  rays) has a hardness value less than the hardness value of hip or femoral bone. Thus, the rasp of Geisser is not hard enough to remove hip or knee bone. As one having almost 20 years of experience in the art, Mr. Biegun also noted that prior art polycarbonate rasps, such as those taught in Geisser, have never been able to rasp bone because prior art rasps are not hard enough.

In further support of this contention, the Applicants note that Grunig (U.S. Patent No. 6,120,508), which also lists Mr. Albert Geisser as an inventor, points out that the rasps taught in Geisser had problems when used on hard bone material and with longer application times:

*Therefore, disposable rasps have already been proposed for only one-time use. EP-A-0 563,585 and EP-A-0 574,701 show disposable rasps made of plastic. In the production of such rasps from biocompatible plastic material, however, problems may arise with the rasp action, particularly in hard bone material and with longer application times.*

Grunig, U.S. Patent No. 6,120,508 at column 1, lines 30-37. The Examiner will quickly be able to verify that both Geisser and EP0563585 claim priority to the same Swiss patent application, CH19920001043. Thus, the inventors of Grunig appreciated that the prior art rasps "proposed" by Geisser were ineffective. Instead of teaching an improved plastic rasp, those of skill in the art in 1999 reverted to using a rasp having *metal* teeth. Grunig, column 2, lines 30-31.

As the Applicants have maintained, it is by pre-exposing the plastic material to  $\beta$  or  $\gamma$  rays that the plastic becomes hard enough to successfully rasp hard bones, such as hip or knee bones.

The Applicants respectfully assert that Geisser does not teach what is claimed, and therefore, the rejection should be withdrawn. Because the teachings of Geisser are insufficient to support the rejection under § 102(b), and this insufficiency is not overcome by the teachings of Morgan or Judd, the rejections under § 103(a) should also be withdrawn. Thus, all claims are believed in condition for allowance.

In view of the foregoing, the Applicants respectfully request the issuance of a Notice of Allowance for claims 12, 13, 15-21, and 25. If any issues remain, a telephone call to the undersigned would be appreciated.

Respectfully submitted,



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Edward G. Greive, Reg. No. 24,726  
Renner, Kenner, Greive, Bobak, Taylor & Weber  
Fourth Floor, First National Tower  
106 S. Main Street  
Akron, Ohio 44308-1456  
Telephone: (330) 376-1242

Attorney for Applicants

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